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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,520	09/17/2003	Eric A. Harrah	3087-46	4301
7590	11/16/2005		EXAMINER	
C. David Emhardt Woodard, Emhardt, Moriarty, McNett & Henry LLP Bank One Center/Tower, Suite 3700 111 Monument Circle Indianapolis, IN 46204-5137			OMGBA, ESSAMA	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/664,520

Applicant(s)

HARRAH, ERIC A.

Examiner

Essama Omgba

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broichhausen (DE 4307207).

With regards to claim 6, Broichhausen discloses a method for lifting a wheel of a vehicle, the wheel having openings therein wherein a U-shaped bracket 7 is provided on a nose of a lifting jack 5 with a steel bar secured to the bracket and a hook 2 secured to the rod, and the hook is hooked on an opening of the wheel and the jack is cranked to lift the wheel, see abstract and figures 1 and 2. Although Broichhausen discloses a steel rod as opposed to a strap, however it would have been obvious to one of ordinary skill in the art at the time the invention was made that the steel rod of Broichhausen is structurally equivalent to the claimed strap since it is known in the art to both use hooks with integral rods or hooks with straps in combination with lifting jacks as attested by various prior arts made of record in the instant application. Furthermore Applicant is claiming a method and not an apparatus, and as such the rods of Broichhausen fulfill the same function as the claimed strap. Applicant should note that the U-shaped bracket of Broichhausen could be considered to have a downwardly opening depending

on the direction of reference, and the orientation of the bracket lends no patentable weight to the method being claimed.

For claim 7, see figure 2.

For claim 8, see figures 1 and 2.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broichhausen in view of Molinari (US Patent 4,042,202).

Broichhausen discloses a method for lifting a wheel of a vehicle, the wheel having openings therein wherein a U-shaped bracket 7 is provided on a nose of a lifting jack 5 with a steel bar secured to the bracket and a hook 2 secured to the rod, and the hook is hooked on an opening of the wheel and the jack is cranked to lift the wheel, see abstract and figures 1 and 2. Although Broichhausen does not disclose using jack stands under the vehicle after having cranked the jack to lift the vehicle, however it is known to use jack stands in conjunction with wheel jacking devices for supporting a vehicle as attested by Molinari, see column 1, lines 9-25. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used jack stands in the method of Broichhausen, in light of the teachings of Molinari, as is known in the art. Applicant should note that the various recited method steps are conventional in the art. Also the steel rod of Broichhausen is structurally equivalent to the claimed straps since it is known in the art to both use hooks with integral rods or hooks with straps in combination with lifting jacks as attested by various prior arts made of record in the instant application. Furthermore Applicant is claiming a method and not an apparatus, and as such the rods of Broichhausen fulfill the same function as the

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claimed straps. Applicant should also note that the U-shaped bracket of Broichhausen could be considered to have a downwardly opening depending on the direction of reference, and the orientation of the bracket lends no patentable weight to the method being claimed.

4. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broichhausen in view of Cargill et al. (US Patent 5,806,837) or Heyne (US Patent 6,286,814).

With regards to claim 6, Broichhausen discloses a method for lifting a wheel of a vehicle, the wheel having openings therein wherein a U-shaped bracket 7 is provided on a nose of a lifting jack 5 with a steel bar secured to the bracket and a hook 2 secured to the rod, and the hook is hooked on an opening of the wheel and the jack is cranked to lift the wheel, see abstract and figures 1 and 2. Although Broichhausen discloses an integral steel rod coupled to the hook as opposed to a strap, however it is known to use a strap/hook combination in lifting jacks as attested by Cargill et al. (figures 1 and 3 showing strap 26 and hook 28) or Heyne (figure 4). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the steel rod of Broichhausen is structurally equivalent to the claimed strap since it is known in the art to both use hooks with integral rods or hooks with straps in combination with lifting jacks as taught by Cargill et al. or Heyne. Furthermore Applicant is claiming a method and not an apparatus, and as such the rods of Broichhausen fulfill the same function as the claimed strap. Applicant should note that the U-shaped bracket of Broichhausen could be considered to have a downwardly opening depending on the

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direction of reference, and the orientation of the bracket lends no patentable weight to the method being claimed.

For claim 7, see figure 2 of Broichhausen.

For claim 8, see figures 1 and 2 of Broichhausen.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broichhausen in view of Molinari and Cargill et al. or Heyne.

Broichhausen discloses a method for lifting a wheel of a vehicle, the wheel having openings therein wherein a U-shaped bracket 7 is provided on a nose of a lifting jack 5 with a steel bar secured to the bracket and a hook 2 secured to the rod, and the hook is hooked on an opening of the wheel and the jack is cranked to lift the wheel, see abstract and figures 1 and 2. Although Broichhausen does not disclose using jack stands under the vehicle after having cranked the jack to lift the vehicle, however it is known to use jack stands in conjunction with wheel jacking devices for supporting a vehicle as attested by Molinari, see column 1, lines 9-25. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used jack stands in the method of Broichhausen, in light of the teachings of Molinari, as is known in the art. Applicant should note that the various recited method steps are conventional in the art. Although Broichhausen discloses integral steel rods coupled to the hooks as opposed to straps, however it is known to use a strap/hook combination in lifting jacks as attested by Cargill et al. (figures 1 and 3 showing strap 26 and hook 28) or Heyne (figure 4). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made that the steel rods of Broichhausen are

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structurally equivalent to the claimed straps since it is known in the art to both use hooks with integral rods or hooks with straps in combination with lifting jacks as taught by Cargill et al. or Heyne. Furthermore Applicant is claiming a method and not an apparatus, and as such the rods of Broichhausen fulfill the same function as the claimed straps. Applicant should also note that the U-shaped bracket of Broichhausen could be considered to have a downwardly opening depending on the direction of reference, and the orientation of the bracket lends no patentable weight to the method being claimed.

### ***Response to Arguments***

6. Applicant's arguments filed August 5, 2005 have been fully considered but they are not persuasive.

In response to Applicant's argument that the examiner has failed to produce an affidavit or to cite a reference in which one of ordinary skill in the art would have found strap/hook combination to be structural equivalent of rod/hook combination, the examiner has provided such references as outlined in the above rejections.

In response to Applicant's argument that the references fail to show certain features of Applicant's invention, it is noted that the features upon which Applicant relies (i.e., a nose of a lifting jack in contact with a u-shaped bracket) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicant's argument that the direction of reference would not affect whether a U-shaped bracket can be described as opening downward, the examiner respectfully disagrees. In as much as a bracket could be oriented in any number of directions, the direction of the opening would have to be made in reference to other interrelated member, as such if one were to look at Broichhausen's U-shaped bracket from the top of piece 7, it would mean that the bracket opens up downward with respect to the top of member 7. And as pointed out in the rejections, the orientation of the bracket lends no patentable weight to the method being claimed as the bracket would still fulfill its function even if rotated 90 degrees.

In view of the above remarks, the examiner maintains that a *prima facie* case of obviousness has been established in the instant application.

### **Conclusion**

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Essama Omgba  
Primary Examiner  
Art Unit 3726

eo  
November 11, 2005